



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP- 173695

PRELIMINARY RECITALS

On April 13, 2016, the above petitioner filed a hearing request under Wis. Admin. Code § DHS 10.55, to review a decision by the Western Wisconsin Cares-FCP to challenge a decision by the Western Wisconsin Cares-FCP regarding Medical Assistance (MA). The hearing was held on June 15, 2016, by telephone from Madison, Wisconsin. Four previously scheduled hearings were rescheduled at petitioner's request.

The issue for determination is whether the agency correctly denied petitioner's supportive home care request to cover apartment cleaning when he moved to a new residence.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Western Wisconsin Cares-FCP

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of La Crosse County. Petitioner receives FCP services. He requires some assistance with personal care and supportive home care (SHC).
2. Petitioner's SHC hours have fluctuated, as the respondent has at times authorized additional hours to address the cleanliness of petitioner's apartment.
3. Petitioner has been evicted from his prior apartment, and the apartment owner has assessed a cleaning bill of \$337.61.
4. Petitioner requested that the respondent provide additional cleaning hours prior to his move. The respondent denied the request for additional SHC hours to address the cleaning needs, and petitioner filed a grievance. On February 10, 2016, the respondent affirmed the denial following a grievance hearing.
5. On March 22, 2016, the respondent notified petitioner that it would not reimburse him for the assessed cleaning bill of \$337.61
6. Petitioner appealed the cleaning bill denial on April 13, 2016.

DISCUSSION

The Family Care program, which is supervised by the Department of Health Services, is designed to provide appropriate long-term care services for elderly or disabled adults. It is authorized in the Wisconsin Statutes, §46.286, and is described comprehensively in the Wisconsin Administrative Code, Chapter DHS 10.

The CMO must develop an Individual Service Plan (ISP) in partnership with the client. Wis. Admin. Code, §DHS 10.44(2)(f). The ISP must reasonably and effectively address all of the client's long-term needs and outcomes to assist the client to be as self-reliant and autonomous as possible, but nevertheless must be cost effective. While the client has input, the CMO does not have to provide all services the client desires if there are less expensive alternatives to achieve the same results. Wis. Admin. Code, §DHS 10.44(1)(f); DHS booklet, Being a Full Partner in Family Care, page 9. ISPs must be reviewed periodically. Admin. Code, §DHS 10.44(j)(5).

The issue in this case is the specific reimbursement for cleaning costs assessed by petitioner's prior landlord over and above the petitioner's security deposit. The respondent provided copious case notes identifying its attempts to address petitioner's eviction notices and keep him in his apartment. The notes also evince a good deal of animosity between petitioner and respondent's employees. They additionally document the multiple attempts that the respondent made to address petitioner's cleaning needs. The respondent asserts that maintenance of petitioner's residence is the responsibility of the petitioner.

Petitioner argues that his fluctuating SHC hours resulted in the apparently deplorable living conditions in his apartment. His representative provided a written statement arguing, in part, that, "[t]he [SHC] hours have been increased when his apartment needs to be cleaned, but then decreased when the issue is resolved." Exhibit 4. I find this argument to be ineffective. Maintenance of petitioner's apartment is his responsibility. The record reflects that petitioner is able to address some of his cleaning/organizational

needs, and petitioner has not sufficiently explained why or how his apartment reached such a state of disarray. The respondent's previous authorizations allowing for additional cleaning were done to address his impending evictions, and came about on an emergent basis.

Based upon the record in this matter, I am unable to conclude that the respondent incorrectly denied the request for reimbursement. The petitioner has failed to establish that he was allotted an incorrect number of SHC hours. He filed a grievance in this regard, and did not appeal the affirmation of that denial. The request for reimbursement was properly denied by the respondent.

CONCLUSIONS OF LAW

The agency properly denied petitioner's request for reimbursement of cleaning services assessed when he vacated his apartment.

THEREFORE, it is ORDERED

That the petition for review herein be and the same is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

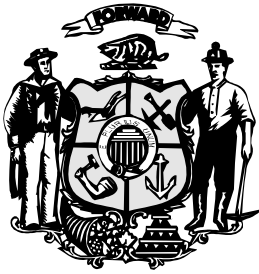
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 7th day of July, 2016

\s _____
Peter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 7, 2016.

Western Wisconsin Cares-FCP
Office of Family Care Expansion
Health Care Access and Accountability
[REDACTED]